

REMARKS/ARGUMENTS

Claims 32-33, 36-38, 40-41, 43-45, and 47-54 remain pending in the application with the present amendments. In the Office Action, all claims were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,872,588 to Aras et al. ("Aras"), in view of U.S. Patent No. 6,298,482 B1 to Seidman et al. ("Seidman") (claims 51-54), or as obvious over U.S. Patent No. 5,798,785 to Hendricks et al. ("Hendricks") in view of U.S. Patent No. 6,462,832 to Malik ("Malik") (Claims 33, 41), or as obvious over Aras, in view of U.S. Patent No. 5,535,206 to Bestler et al. ("Bestler"), further in view of Seidman (claims 32, 36-38, 40, 43-45 and 47-50).

For the reasons set forth below, applicants respectfully submit that the presently pending claims overcome the rejections made by the Examiner. Reconsideration and withdrawal of the rejections is requested.

The rejections of the claims are addressed herein in the order presented in the Office Action. As now set forth in claim 51, a broadcast-program selection history information acquisition apparatus includes a processor which is operable to control the operation of the apparatus after a loss of power to the apparatus. As described in the Specification, one use of this feature is to protect the privacy of a user who obtains the apparatus second-hand from a prior user, i.e., when the new user does not want the collection and transmission of broadcast-program selection history information. (p. 28, ln.6 through p. 30, ln. 10). In such example, the processor uses the loss of power and its subsequent restoration as a signal to require authorizing input from the user. The user's authorizing input is made a condition to storing and transmitting the selection history information by the apparatus. Specifically,

the processor is operable to require authorizing input from a user *upon each restoration of power* (after a loss of power) to the broadcast-program selection history information acquisition apparatus.

Clearly, neither *Aras* nor *Seidman* teach or suggest this feature of the invention recited in claim 51. As to *Aras*, the Examiner admits that *Aras* fails to teach "authorizing input from a user upon restoration of power." However, *Seidman* merely describes a system in which historical reports are sent each time the system is powered on. (col. 6, lns. 39-45). With respect to this passage, applicants submit that rather than teaching the recited feature, *Seidman* clearly teaches *against* the invention recited in claim 51. *Seidman* merely describes a device which sends a report, if due, when the system powers up. If the report is due when the system powers up, the report is sent. If the report is not due when the system powers up, the report is not sent. *Seidman* makes no mention of requiring an authorizing input from the user before sending such report. Clearly, *Seidman* neither teaches nor suggests the invention recited in claim 51 which requires the user's authorizing input *upon each restoration of power as a condition to storing the selection information and to the transmission of the selection history information*. In addition, applicants submit that the passage of *Seidman* at col. 6, lns. 53-65 neither teaches nor suggests the recited feature. This passage merely recites that the head end can prompt a report by use of a "send report" message. *Seidman* makes no mention that a report sent by the device in response to the "send report" message requires the user's authorizing input as a condition to proceed.

Moreover, claim 54 further specifies one way in which this feature is implemented in which a user application executable by the processor requires the user's authorizing

input in order to execute. Clearly, this feature is also lacking in the cited references.

In addition, claims 33 and 41 now recite the generation of a random number and the assignment of a transmission timing that corresponds to the random number, based on the telephone number assigned to the telephone line. Clearly, neither *Hendricks* nor *Malik* teaches this feature of the invention recited in claims 33 and 41. *Hendricks*, at cols. 21-22, neither teaches nor suggests the assignment of a transmission timing that corresponds to a random number generated by a transmission timing assignment means of the broadcast-program selection history information acquisition apparatus. On the contrary, *Hendricks* describes an apparatus which transmits information only in response to polling or on an "as-needed ('random access') basis." Here, the term "as-needed ('random access') basis" must not be confused with the use of a random number in the assignment of a transmission timing. Transmission on an "as-needed" basis implies that the apparatus transmits whenever there is information that the apparatus needs to transmit. By contrast, the claim recites the generation of a random number and the assignment of a transmission timing corresponding to the random number, based on the telephone number assigned to the telephone line. Rather than being on an "as-needed" basis, transmitting at such timing corresponding to the random number indicates that the transmission from a particular apparatus must sometimes wait until its assigned timing arrives, even if the apparatus has information to be transmitted earlier than such timing.

Malik neither teaches nor suggests the features which are lacking in *Hendricks*. *Malik* merely teaches that a source terminal and a destination server exchange information regarding the telephone numbers of the calling station and the called

station (col. 8, ln. 66 through col. 9, ln. 16). *Malik* neither teaches nor suggests that a transmission timing is *assigned by a device performing the transmitting* by generating a random number and assigning the transmission timing corresponding to the random number based on a telephone number assigned to the predetermined telephone line.

Finally, the rejections of claims 32, 36-38, 40, 43-45 and 47-50 are simply not warranted in view of the cited art. The Examiner cited *Aras*, in view of *Bestler* and further in view of *Seidman* in rejecting these claims. Here, the Examiner has determined that *Aras* does not teach the recited feature of assigning a transmission timing at random in accordance with an intrinsic random number, and not in response to a data transfer request received from a device external to said broadcast-program selection history information acquisition apparatus. The Examiner cites *Bestler* (col. 2, lns. 33-37 and col. 3, ln. 43 through col. 4, ln. 20) as describing "transmission timing assigned at random." However, *Bestler* does not teach the recited feature of *assignment* of a transmission timing at random *in accordance with a random number*. As recited in claim 32, the transmission timing is assigned by the apparatus which performs the transmitting. By contrast, in the system described in *Bestler*, the head end device, not the subscriber terminal, programmably controls the time slots when the subscriber terminal is allowed to transmit. (col. 4, lines 1-6). In addition, there is no mention in *Bestler* of the subscriber terminal assigning a transmission timing in accordance with an intrinsic random number. The observation that the subscriber terminal appears to be enabled by "dynamically programmable parameters" from the head end to "randomly send upstream data" does not satisfy the more restrictive language of the claim of the transmitting apparatus

assigning a transmission timing to itself in accordance with a random number.

Support for the present amendments is provided, inter alia, at p. 28, ln. 6 through p. 30, ln. 10; and at p. 27, lns. 6-16, and p. 37, lns. 4-17.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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